

Jhf 09-17-2020

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

LINDA R. SCHAAD

vs.

TEXAS ROADHOUSE HOLDINGS, LLC.)
Alias ABC Corporation and John Doe)

C.A.NO: PC-2020-

COMPLAINT

COUNT I **(Negligence)**

Now comes the Plaintiff in the above-entitled cause and alleges and says:

1. That the Plaintiff Linda R. Schaad is a resident of the Town of Warren, County of Providence, State of Rhode Island.

2. That the Defendant Texas Roadhouse Holdings LLC, Alias ABC Corporation (hereinafter referred to as Defendant "Texas Roadhouse") upon information and belief is a foreign corporation organized and existing under the laws of the State of Kentucky, is authorized to do business within the State of Rhode Island and is in fact doing business in the State of Rhode Island.

3. That the Defendant John Doe is unknown to Plaintiff at this time and was responsible for the design of the customer booths located at 131 Faunce Corner Mall Road, Dartmouth, Massachusetts and is being sued pursuant to R.I.G.L. §9-5-20.

4. That on or about January 2, 2020, the Defendant Texas Roadhouse, upon information and belief owned, operated and/or maintained a property located at 131 Faunce Corner Mall Road, Dartmouth, Massachusetts.

5. That on or about January 2, 2020, the Defendant John Doe, upon information and belief designed the customer booths located at 131 Faunce Corner Mall Road, Dartmouth, Massachusetts.

6. That on or about January 2, 2020, the Plaintiff Linda R. Schaad was a business invitee on said premises located at 131 Faunce Corner Mall Road, Dartmouth, Massachusetts.

7. That on or about January 2, 2020, while stepping down in a careful and prudent manner from a booth inside said restaurant, in an area designated by the Defendant Texas Roadhouse for the passage of Plaintiff Linda R. Schaad and other business invitees, Plaintiff Linda R. Schaad slipped and fell down from a short step between the platform on which the booth sat and the floor that was hazardous and negligently and carelessly allowed to remain in the restaurant.

8. That Defendant Texas Roadhouse through its agents, servants and/or employees, knew or should have known that the said booth of the restaurant would be used by Plaintiff Linda R. Schaad and others in her position.

9. That Defendant Texas Roadhouse was under a duty to the Plaintiff Linda R. Schaad and/or others in her position to keep said booth and short step between the platform and the floor free from defects, properly repaired and maintained and otherwise fit, safe, and properly maintained for its intended use.

11. That the Defendant Texas Roadhouse through its agents, servants and/or employees negligently breached said duties and as a result of said negligence, Plaintiff Linda R. Schaad slipped and fell as aforesaid.

12. That at all times mentioned herein, Plaintiff Linda R. Schaad was in the exercise of due care.

13. That the Defendant Texas Roadhouse is liable for the damage caused by the negligence of its agents, servants and/or employees.

14. That as a direct and proximate result of the aforesaid negligence on the part of Defendant Texas Roadhouse, Plaintiff Linda R. Schaad has suffered great injuries and has suffered great pain of body and mind, Plaintiff Linda R. Schaad has expended great sums of money for the medical care and treatment of said injuries and Plaintiff has suffered other great damage.

15. That the amount claimed is sufficient to establish jurisdiction in the Superior Court.

WHEREFORE, Plaintiff demands judgment against Defendant Texas Roadhouse Holdings LLC, Alias ABC Corporation, plus interest and costs.

Plaintiff

By her attorneys,



Stephen M. Rappoport, Esq. #1250
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989 Waterman Avenue
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(401) 437-3000
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COUNT II – NEGLIGENCE
(Mode of Operation Approach)

1-11. That Plaintiff re-alleges paragraphs one through eleven of Count I and incorporate the same herein by reference.

12. That the nature of Defendant Texas Roadhouse's business gives rise to a substantial risk of injury to customers such as Plaintiff Linda R. Schaad from slip and fall incidents.

13. That the manner in which Defendant Texas Roadhouse's restaurant operated created a foreseeable danger to Plaintiff Linda R. Schaad.

14. That Defendant Texas Roadhouse negligently failed to take all reasonable precautions necessary to protect the invitee Plaintiff Linda R. Schaad from the foreseeable dangerous conditions.

15. That Defendant Texas Roadhouse negligently failed to take adequate steps to forestall the resulting injuries to Plaintiff Linda R. Schaad; that is, Defendant Texas Roadhouse acted unreasonably in the circumstances.

16. That at all times mentioned herein, Plaintiff Linda R. Schaad was in the exercise of due care.

17. That the Defendant Texas Roadhouse is liable for the damage caused by the negligence of its agents, servants and/or employees.

18. That as a direct and proximate result of the aforesaid negligence on the part of Defendant Texas Roadhouse, Plaintiff Linda R. Schaad has suffered great injuries and has suffered great pain of body and mind, Plaintiff Linda R. Schaad has expended great sums of money for the medical care and treatment of said injuries and Plaintiff has suffered other great damage.

19. That the amount claimed is sufficient to establish jurisdiction in the Superior Court.

WHEREFORE, Plaintiff demands judgment against Defendant Texas Roadhouse Holdings LLC, Alias ABC Corporation, plus interest and costs.

Plaintiff,

By her Attorneys,



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COUNT III
(Res Ipsa Loquitur)

1-11. That Plaintiff re-alleges paragraphs one through eleven of Count I and incorporate the same herein by reference.

12. That at all times mentioned herein and prior thereto, said booth and floor was in the exclusive control of the Defendant Texas Roadhouse, through its agents, servants and/or employees.

13. That the Plaintiff Linda R. Schaad is without knowledge of the precise acts of negligence of Defendant Texas Roadhouse which caused Plaintiff Linda R. Schaad's said injuries and said acts are known by Defendant.

14. That the type of incident described herein and Plaintiff Linda R. Schaad's said injuries would not ordinarily occur in the absence of negligence on the part of Defendant Texas Roadhouse.

15. That said Plaintiff Linda R. Schaad's injuries were in no way contributed to by any voluntary acts of the said Plaintiff or by anyone other than Defendant, Texas Roadhouse.

16. That as a direct and proximate result of the aforesaid negligence on the part of Defendant Texas Roadhouse, Plaintiff Linda R. Schaad has suffered great injuries and has suffered great pain of body and mind, Plaintiff Linda R. Schaad has expended great sums of money for the medical care and treatment of said injuries and Plaintiff has suffered other great damage.

WHEREFORE, Plaintiff demands judgment against Defendant Texas Roadhouse Holdings LLC, Alias ABC Corporation, plus interest and costs.

Plaintiff

By her attorneys,



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COUNT IV
(Negligence)

1-7. That Plaintiff re-alleges paragraphs one through seven of Count I and incorporate the same herein by reference.

8. That Defendant John Doe through its agents, servants and/or employees, knew or should have known that the said floor and booth of the restaurant would be used by Plaintiff Linda R. Schaad and others in her position.

9. That Defendant John Doe was under a duty to the Plaintiff Linda R. Schaad and/or others in her position, to keep said booth and short step between the platform and the floor free from defects, properly designed and otherwise fit, safe, and properly maintained for its intended use.

10. That the Defendant John Doe through its agents, servants and/or employees negligently breached said duties and as a result of said negligence, Plaintiff Linda R. Schaad slipped and fell as aforesaid.

11. That at all times mentioned herein, Plaintiff Linda R. Schaad was in the exercise of due care.

12. That the Defendant John Doe is liable for the damage caused by the negligence of its agents, servants and/or employees.

13. That as a direct and proximate result of the aforesaid negligence on the part of Defendant John Doe, Plaintiff Linda R. Schaad has suffered great injuries and has suffered great pain of body and mind, Plaintiff Linda R. Schaad has expended great sums of money for the medical care and treatment of said injuries and Plaintiff has suffered other great damage.

14. That the amount claimed is sufficient to establish jurisdiction in the Superior Court.

WHEREFORE, Plaintiff demands judgment against Defendant John Doe plus interest and costs.

Plaintiff

By her attorneys,



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COUNT V – NEGLIGENCE
(Mode of Operation Approach)

1-7. That Plaintiff re-alleges paragraphs one through seven of Count I and incorporate the same herein by reference.

8. That the nature of Defendant John Doe's business gives rise to a substantial risk of injury to customers such as Plaintiff Linda R. Schaad from slip and fall incidents.

9. That the manner in which Defendant John Doe's restaurant operated created a foreseeable danger to Plaintiff Linda R. Schaad.

10. That Defendant John Doe negligently failed to take all reasonable precautions necessary to protect the invitee Plaintiff Linda R. Schaad from the foreseeable dangerous conditions.

11. That Defendant John Doe negligently failed to take adequate steps to forestall the resulting injuries to Plaintiff Linda R. Schaad; that is, Defendant John Doe acted unreasonably in the circumstances.

12. That at all times mentioned herein, Plaintiff Linda R. Schaad was in the exercise of due care.

13. That the Defendant John Doe is liable for the damage caused by the negligence of its agents, servants and/or employees.

14. That as a direct and proximate result of the aforesaid negligence on the part of Defendant John Doe, Plaintiff Linda R. Schaad has suffered great injuries and has suffered great pain of body and mind, Plaintiff Linda R. Schaad has expended great sums of money for the medical care and treatment of said injuries and Plaintiff has suffered other great damage.

15. That the amount claimed is sufficient to establish jurisdiction in the Superior Court.

WHEREFORE, Plaintiff demands judgment against Defendant John Doe plus interest and costs.

Plaintiff,

By her Attorneys,



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COUNT VI
(Res Ipsa Loquitur)

1-7. That Plaintiff re-alleges paragraphs one through seven of Count I and incorporate the same herein by reference.

8. That at all times mentioned herein and prior thereto, said floor and booth was in the exclusive control of the Defendant John Doe through its agents, servants and/or employees.

9. That the Plaintiff Linda R. Schaad is without knowledge of the precise acts of negligence of Defendant John Doe which caused Plaintiff Linda R. Schaad's said injuries and said acts are known by Defendant.

10. That the type of incident described herein and Plaintiff Linda R. Schaad's said injuries would not ordinarily occur in the absence of negligence on the part of Defendant John Doe.

11. That said Plaintiff Linda R. Schaad's injuries were in no way contributed to by any voluntary acts of the said Plaintiff or by anyone other than Defendant John Doe.

12. That as a direct and proximate result of the aforesaid negligence on the part of Defendant John Doe, Plaintiff Linda R. Schaad has suffered great injuries and has suffered great pain of body and mind, Plaintiff Linda R. Schaad has expended great sums of money for the medical care and treatment of said injuries and Plaintiff has suffered other great damage.

WHEREFORE, Plaintiff demands judgment against Defendant John Doe plus interest and costs.

Plaintiff

By her attorneys,



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COUNT VII

1-7. That Plaintiff re-alleges paragraphs one through seven of Count I and incorporates the same herein by reference.

8. That all Defendants through their agents, servants and/or employees, knew or should have known that the floor and booth of said premises would be used by Plaintiff Linda R. Schaad and others in her position.

9. That all Defendants were under a duty to the Plaintiff Linda R. Schaad and others in her position, to keep said booth and short step on the platform between the booth and the floor free from defects, properly repaired and maintained and otherwise fit, safe, and properly maintained for its intended use.

10. That all Defendants, through their agents, servants and/or employees negligently breached said duties and as a result of said negligence, Plaintiff Linda R. Schaad slipped and fell as aforesaid.

11. That at all times mentioned herein Plaintiff Linda R. Schaad was in the exercise of due care.

12. That all Defendants are liable for the damage caused by the negligence of their agents, servants and/or employees.

13. That as a direct and proximate result of the aforesaid negligence on the part of all Defendants, Plaintiff Linda R. Schaad has suffered great injuries and has suffered great pain of body and mind, Plaintiff Linda R. Schaad has expended great sums of money for the medical care and treatment of said injuries and Plaintiff has suffered other great damage.

14. That the amount claimed is sufficient to establish jurisdiction in the Superior Court.

WHEREFORE, Plaintiff demands judgment against all Defendants, jointly and severally, plus interest and costs.

Plaintiff

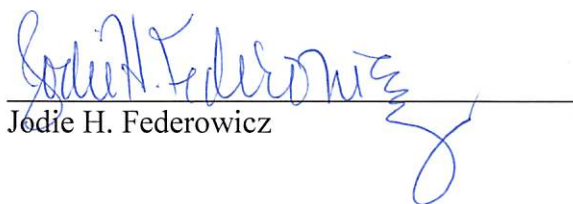
By her attorneys,



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CERTIFICATION

I, the undersigned, hereby certify that on the 17th day of September, 2020, I filed this document electronically and it is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.


Jodie H. Federowicz